

AFFIDAVIT OF C. CHRIS SAUTTER

1. My name is C. Chris Sautter. I am a consultant to the Franken for Senate Committee in connection with the ongoing U.S. Senate recount. I have worked on recounts around the nation, including in elections for the United States Senate and the United States House of Representatives.

2. On November 14, 2008, I participated in a telephone conference call initiated by the Secretary of State's office. The Secretary of State had advised that his office would prepare proposed recount procedures to recommend to the State Canvassing Board, and that each campaign would be given opportunity to comment as those procedures were prepared. The purpose of the telephone conference was to discuss the proposed procedures.

3. During the telephone conference, counsel for the Coleman campaign, Tony Trimble, raised the issue of whether original ballots or duplicate ballots would be counted in the recount. Mr. Trimble insisted that the originals, rather than the duplicates, should be used as the best evidence of voter intent. The Franken campaign agreed with the Coleman campaign's proposal.

4. On Monday, November 17, 2008, at 12:12 p.m., the Secretary of State's Office issued its revised proposed administrative recount procedures. The Coleman campaign proposal was incorporated in proposed Rule 9, which read as follows:

As the Table Official sorts the ballots, he or she shall remove all ballots that are marked as duplicate ballots and place those duplicate ballots in a fourth pile. At the conclusion of the sorting process, the Table Official shall open the envelope of original ballots for which duplicates were made for that precinct and sort the original ballots in the same manner as they sorted all other ballots. The Table Official shall disregard this step if there is not an envelope of original ballots, in which case the duplicate ballots will be sorted.

In other words, the rule was that “marked” duplicate ballots would be removed and original ballots would be counted, unless the original ballots were not available.

5. In issuing the revised proposed administrative recount procedures, the Secretary of State’s Office invited the candidates’ representatives to appear before the State Canvassing Board and to “feel free to suggest changes, modifications, additions and/or deletions to the proposed procedures”

6 By email dated November 17, 2008, at 4:45 p.m., Deputy Secretary of State Jim Gelbmann notified the two campaigns that the proposed administrative recount procedures would be presented to the State Canvassing Board on November 18, 2008. He further advised that the State Canvassing Board had authority to modify the proposed procedures and that the Secretary of State would provide time on the agenda if a campaign wanted to argue for changes. Copies of the Deputy Secretary of State’s emails to the campaigns are attached hereto as Exhibit A.

7. The State Canvassing Board met on November 18, 2008. The proposed administrative recount procedures were offered by the Secretary of State’s Office. The Coleman campaign did not object to the procedures or propose any change to Rule 9 regarding original and duplicate ballots. The State Canvassing Board adopted the procedures.

8. The recount commenced the next day, November 19, 2008. The issue of original and duplicate ballots first arose in Anoka County, which Coleman won by about 9%. At 11:28 that morning, Mr. Trimble’s colleague, Matthew Haapoja, wrote to Deputy Secretary of State Gelbmann asking whether, in the absence of an original, the corresponding duplicate would be counted or discarded.

9. Approximately one hour later, Mr. Trimble, in an email to the Deputy Secretary of State, argued that, in the absence of an original, the duplicate should be counted, and that no challenges should be allowed to such ballots. He stated:

We believe that duplicate ballots should be counted if no corresponding original can be found, as this was a ballot cast on election night. A challenge to a duplicate ballot for which no original can be found is a frivolous challenge, because it does not relate to voter intent. Any challenge to a duplicate ballot should be made within an election contest and is not within the limited jurisdiction of an administrative recount. We will request the Minnesota State Canvassing Board to reject any challenges to duplicate ballots as groundless and frivolous (if the same are brought to the Canvassing Board).

A copy of this email exchange is attached hereto as Exhibit B.

10. By email at 2:01 p.m. on November 19, 2008, the Deputy Secretary of State informed the campaigns that his office was “working on some language to clarify Rule 9.” A copy of this email is attached hereto as Exhibit C.

11. As promised, the Deputy Secretary of State furnished the two campaigns with draft guidance prepared by Recount Official Gary Poser. The Deputy Secretary of State invited the campaigns to “c[a]ll or email if you have concerns [regarding the proposed guidance].” Mr. Trimble and Mr. Haapoja responded: “This is perfectly clear. Thank you.” A copy of the email exchange is attached hereto as Exhibit D.

12. The draft guidance from the Secretary of State’s Office, interpreting Rule 9, was that originals should be counted except when no marked duplicate ballots were found. However, marked duplicate ballots would be counted when no originals were found. When there was a significant discrepancy between the number of originals and the number of marked duplicates, and if the campaigns did not agree on a solution, the originals would be counted.

13. The Coleman campaign accepted the Secretary of State's Office's interpretation of, and guidance on, Rule 9 and did not object or seek different language.

14. Later in the day of November 19, 2008, the recount was proceeding in Cass County, which Coleman won by 11%. Coleman counsel Matt Haapoja complained to the Secretary of State that the county auditor was refusing to count originals (as required by Rule 9).

15. The Deputy Secretary of State stated that, in that particular instance, originals were not being counted because no marked duplicate ballots had been found. Mr. Haapoja responded: "Thanks for contacting her and the clarification." A copy of the email exchange is attached hereto as Exhibit E.

16. Two minutes later, Mr. Haapoja followed up and asked that the Deputy Secretary of State's clarification be incorporated into the draft being prepared to give guidance to local elections officials. The Deputy Secretary of State noted: "Already incorporated into the draft." A copy of the email exchange is attached hereto as Exhibit F.

17. Late in the day on November 19, with the concurrence of the Coleman campaign, the Secretary of State's Office provided its guidance to recount officials regarding how and when original ballots and duplicate ballots would be counted. A copy is attached hereto as Exhibit G.

18. On November 20, 2008, again in connection with the recount in Anoka County, Coleman counsel Matt Haapoja complained that there were "several instances" of "clear Coleman originals" rejected due to lack of a corresponding duplicate. He was also concerned that, in the absence of marked duplicates, original ballots would be

counted. In other words, the Coleman campaign was complaining that Rule 9 and the Secretary of State's Office's guidance on Rule 9, furnished the day before, was not being followed

19. The Deputy Secretary of State responded: "This is not true. We stand by our instructions as stated in our memo of November 19th." Coleman counsel thanked the Deputy Secretary of State and confirmed that Anoka County officials were proceeding in accordance with Rule 9 and the guidance provided thereunder. Attached as Exhibit H is the exchange of emails from November 20 to 21 between Coleman counsel and the Deputy Secretary of State

20. The issue of original and duplicate ballots arose on the third day of the recount, November 21, in Brooklyn Park. In 11 of the 24 precincts, marked duplicate ballots had been found, but no originals, so the duplicates were counted. On November 21, the original ballots were found. The Secretary of State's office proposed that the 11 precincts be counted again using the original ballots. My recollection is that both candidates agreed. A copy of the exchange of emails among the Deputy Secretary of State, the Coleman campaign, and the Franken campaign is attached hereto as Exhibit I. Again, the Secretary of State's Office and both campaigns proceeded pursuant to Rule 9 and the guidance thereunder.

21. The Deputy Secretary of State, copying both campaigns, issued instructions to the Brooklyn Park elections official to remove the marked duplicate ballots and instead, count the original ballots. "Hopefully," he said, "the number of duplicates found equal the number of original ballots in each envelope. If not, the default is to count the original ballots and stick with that total." My recollection is that the

Coleman campaign did not object to this procedure, which was consistent with Rule 9 and the guidance thereunder. A copy of the Deputy Secretary of State's instructions to Brooklyn Park is attached hereto as Exhibit J.

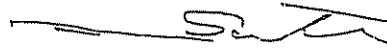
22. On November 24, 2008, the issue of originals and duplicates arose again, this time in Mower County. The county auditor decided not to remove the duplicates and count the originals, as required by Rule 9 and the guidance thereunder, but to count both. The Franken campaign wrote to the Deputy Secretary of State and the Recount Official to complain about the situation. A copy of that email is attached hereto as Exhibit K. Upon information and belief, the problem was remedied by the Secretary of State's Office.

23. In summary, the Coleman campaign proposed that originals be preferred to duplicates. The Franken campaign agreed. The Coleman campaign's proposal was embodied in Rule 9. At the request of the Coleman campaign, the Secretary of State's Office issued guidance under Rule 9, which guidance was relied upon by both campaigns, at least until the Coleman campaign decided to change its position.

24. The original ballots, which were filled out by real voters, were "cast" on Election Day, in every sense of the word. In agreeing that originals would be counted rather than marked duplicates, the two campaigns decided that the originals were the best evidence of voter intent. As the State Canvassing Board saw last week, original ballots may contain partially filled in ovals, Xs and circles, identifying marks, stray marks, and a variety of other writings and markings. By contrast, a duplicate ballot is a ballot filled out by an election judge. Election judges typically fill in ovals with precision and do not otherwise mark the duplicate ballot.

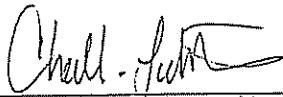
25. In agreeing to count originals rather than marked duplicates, so that the best evidence of voter intent would be used in the recount, both campaigns accepted some uncertainty. Both campaigns knew or should have known that, through human error, there might be instances where the number of original ballots and marked duplicate ballots might not match, one way or the other

26. From time to time during the recount, the Franken campaign encountered instances where there were votes for Norm Coleman on original ballots with no corresponding marked duplicate ballot. In reliance on Rule 9 and the guidance provided thereunder, the Franken campaign did not, by and large, lodge challenges against such original ballots for Coleman. Were the Minnesota Supreme Court now to rule that Rule 9 and the guidance thereunder was unlawful, the Franken campaign would suffer serious prejudice.



C. Chris Sautter

Subscribed to and sworn before me
this 21st day of December, 2008.



Notary Public, Charles Lichtman
Chris Sautter is personally known to me
and executed this affidavit in my presence,
having duly taken an oath.

Charles Lichtman
Berger Singerman
350 E. Las Olas Blvd.
Suite 1000
Fort Lauderdale, FL 33301
954 677 9913
Florida Bar No. 501090

Lillehaug, David

From: Jim Gelbmann [Jim.Gelbmann@state.mn.us]
Sent: Monday, November 17, 2008 4:45 PM
To: 'Tony P. Trimble'; 'Jim Gelbmann'; Lillehaug, David; fknaak@klaw.us; Kaplan, Steven; 'Marc Elias'; csheehan@colemanforsenate.com; 'Ezra Reese'
Cc: Christie.Eller@state.mn.us; 'Gilbert, Al'; 'Raschke, Ken'; Mark Ritchie
Subject: RE: Proposed Administrative Recount Procedures

Dear Tony, et al:

The proposed administrative recount procedures forwarded to you earlier this afternoon are the Recommendations of the Office of the Secretary of State to the State Canvassing Board. Any further changes will need to be presented to the State Canvassing Board by the candidates' representatives. The Board has the authority to modify the proposed administrative recount procedures. Secretary Ritchie will provide time on the agenda for you to make your arguments for additional changes. In the interest of respecting everyone's time, we do request that you limit your arguments to the Canvassing Board to 10 minutes. If that does not appear reasonable, the Chair will look to the other members of the Board to determine if they need to hear additional testimony on any specific issue.

My best regards.

Sincerely,

Jim

Jim Gelbmann
Deputy Secretary of State
180 State Office Building
Saint Paul, Minnesota 55155
(651) 201-1344 (office)
(651) 334-4077 (cell)

From: Tony P. Trimble [mailto:trimblelegals@earthlink.net]
Sent: Monday, November 17, 2008 3:19 PM
To: 'Jim Gelbmann'; 'Lillehaug, David'; fknaak@klaw.us; 'Kaplan, Steven'; 'Marc Elias'; csheehan@colemanforsenate.com; 'Ezra Reese'
Cc: Christie.Eller@state.mn.us; 'Gilbert, Al'; 'Raschke, Ken'
Subject: RE: Proposed Administrative Recount Procedures

Jim:

Our first comment as to the rules is that we again renew our request as to the following:

The Deputy Recount Official (or Assistant Deputy Recount Official) shall produce the ballot container (boxes) one (1) precinct at a time. This shall be done in the presence of all campaign representatives who shall examine the box to see if the seals are broken and note any that are found broken. The Deputy Recount Official (or Assistant Deputy Recount Official) shall then remove any election register from the container. The Table Officials shall then count the names in the election register to determine the number who apparently voted, where such registers are found or available. If there is no election register, the voters' certificates or, if the same are not

12/19/2008

EXHIBIT A

available, the duplicate registration files of persons who voted shall be counted. The total number of persons signing the election register and the total number of absentee ballots accepted by local election officials shall be entered by a Table Official on the summary sheet.

We also believe that, prior to sorting any ballots, the total number of ballots should be counted to determine whether there are too many or too few. As you are likely aware, during last week's City of Austin recount, a large number of ballots (55) were missing for a period of time. If the officials do not know how many ballots there are supposed to be, how are they to know at the end of the precinct count if all have been actually counted? We strongly believe that this type of reconciliation process prior to sorting the ballots is an essential threshold issue to preserving the integrity of the recount.

Please advise if these requests will not be incorporated into the proposed rules so we can directly petition the State Canvassing Board on these important threshold issues.

Thanks,

Tony Trimble / Fritz Knaak / Matthew Haapoja

Trimble & Associates, Ltd.
10201 Wayzata Blvd., Suite 130
Minneapolis, Minnesota 55305
Tel: (952) 797-7477
Fax: (952) 797-5858

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From: Jim Gelbmann [mailto:Jim.Gelbmann@state.mn.us]
Sent: Monday, November 17, 2008 12:12 PM
To: Jim Gelbmann; 'Tony Trimble'; 'Lillehaug, David'; 'fknaak@klaw.us'; 'Kaplan, Steven'; 'Marc Elias'; 'csheehan@colemanforsenate.com'; 'Ezra Reese'
Cc: 'Christie.Eller@state.mn.us'; 'Gilbert, Al'; 'Raschke, Ken'
Subject: Proposed Administrative Recount Procedures

Goo Afternoon everyone:

I have attached two documents to this e-mail. The First Document is the proposed Administrative Recount Procedures we will ask the State Canvassing Board to approve at tomorrow's meeting. The second is an Attorney General's Opinion on the status of rejected absentee ballots in an Administrative recount.

As Secretary Ritchie noted on Friday, he will welcome any suggestions by either candidate for any of the Recommended Procedures prior to asking the Board to approve the procedures. Candidate Representatives should feel free to suggest changes, modifications, additions and/or deletions to the proposed procedures and the other candidate will be allowed to respond to those suggestions. While we will not impose timelimits for your comments, please be respectfully of everyone's time.

Please call me with your comments or suggestions. We will be releasing these documents to the public at 3:30 p.m.

12/19/2008

Availability for a meeting tomorrow afternoon

today.

My best regards.

Sincerely,

Jim Gelbmann
Deputy Secretary of State
180 State Office Building
Saint Paul, Minnesota 55155
(651) 201-1344 (office)
(651) 334-4077 (cell)

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Lillehaug, David

From: Tony P. Trimble [trimblelegals@earthlink.net]
Sent: Wednesday, November 19, 2008 12:36 PM
To: Kaplan, Steven; 'Jim Gelbmann'; Lillehaug, David
Cc: 'Gary Poser'; 'Mark Ritchie'; 'Beth Fraser'; Christie.Eller@state.mn.us; 'Gilbert, Al'; 'Raschke, Ken'; fknaak@klaw.us; 'Marc Elias'; 'Ezra Reese'; csheehan@colemanforsenate.com; khamilton@perkinscoie.com
Subject: RE: Duplicate Ballots

We believe that duplicate ballots should be counted if no corresponding original can be found, as this was a ballot cast on election night. A challenge to a duplicate ballot for which no original can be found is a frivolous challenge, because it does not relate to voter intent. Any challenge to a duplicate ballot should be made within an election contest and is not within the limited jurisdiction of an administrative recount. We will request the Minnesota State Canvassing Board to reject any challenges to duplicate ballots as groundless and frivolous (if the same are brought to the Canvassing Board).

Tony Trimble

Trimble & Associates, Ltd.
10201 Wayzata Blvd., Suite 130
Minneapolis, Minnesota 55305
Tel: (952) 797-7477
Fax: (952) 797-5858

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From: Kaplan, Steven [mailto:skaplan@fredlaw.com]
Sent: Wednesday, November 19, 2008 12:19 PM
To: Jim Gelbmann; Lillehaug, David; Tony P. Trimble
Cc: Gary Poser; Mark Ritchie; Beth Fraser; Christie.Eller@state.mn.us; Gilbert, Al; Raschke, Ken; fknaak@klaw.us; Marc Elias; Ezra Reese; csheehan@colemanforsenate.com; khamilton@perkinscoie.com
Subject: RE: Duplicate Ballots

Jim: The Franken Campaign objects to the counting of any duplicate ballot for which a corresponding original has not been kept and cannot be viewed during the recount. See, in particular, MN Rule 8230.3850. Only originals are legally valid ballots and where the originals don't exist, the duplicate cannot be deemed a validly cast ballot. Steve

Steven Z. Kaplan
Fredrikson & Byron
200 South Sixth Street

12/19/2008

EXHIBIT B

Suite 4000
Minneapolis, MN 55402-1425
(612) 492-7169 - Phone
(612) 492-7077 - Fax

IRS Circular 230 Disclosure

To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code, or (ii) promoting, marketing or recommending to another party any matters addressed herein.

From: Jim Gelbmann [mailto:Jim.Gelbmann@state.mn.us]
Sent: Wednesday, November 19, 2008 11:47 AM
To: Lillehaug, David; Tony P. Trimble; Jim Gelbmann
Cc: Gary Poser; Mark Ritchie; Beth Fraser; Christie.Eller@state.mn.us; Gilbert, Al; Raschke, Ken; fknaak@klaw.us; Kaplan, Steven; Marc Elias; Ezra Reese; csheehan@colemanforsenate.com
Subject: RE: Duplicate Ballots

We will wait for the Franken Campaign to respond before ruling. We ask the Franken campaign to respond within the next half hour.

Jim Gelbmann
Deputy Secretary of State
180 State Office Building
Saint Paul, Minnesota 55155
(651) 201-1344 (office)
(651) 334-4077 (cell)

From: Lillehaug, David [mailto:dlillehaug@fredlaw.com]
Sent: Wednesday, November 19, 2008 11:37 AM
To: Tony P. Trimble; Jim Gelbmann
Cc: Gary Poser; Mark Ritchie; Beth Fraser; Christie.Eller@state.mn.us; Gilbert, Al; Raschke, Ken; fknaak@klaw.us; Kaplan, Steven; Marc Elias; Ezra Reese; csheehan@colemanforsenate.com
Subject: RE: Duplicate Ballots

Dear Mr. Gelbmann -- This may be an important issue. Before the SoS office issues any direction, the Franken campaign would like a little time to review our analysis and then be heard. In the meantime, I would appreciate it if the Trimble office would identify the location(s) in which it believes this issue has arisen.

David Lillehaug
Fredrikson & Byron, P.A.
612-492-7321

From: Tony P. Trimble [mailto:trimblelegals@earthlink.net]
Sent: Wednesday, November 19, 2008 11:28 AM

12/19/2008

To: 'Jim Gelbmann'

Cc: 'Gary Poser'; 'Mark Ritchie'; 'Beth Fraser'; Christie.Eller@state.mn.us; 'Gilbert, Al'; 'Raschke, Ken'; Lillehaug, David; fknaak@klaw.us; Kaplan, Steven; 'Marc Elias'; 'Ezra Reese'; csheehan@colemanforsenate.com

Subject: Duplicate Ballots

Jim:

Can you please clarify the rule if a "DUPLICATE" ballot exists, but no corresponding original can be found? Will such a "DUPLICATE" be wholly discarded or counted? If an election official does not count it, can an observer nevertheless challenge it?

Matt

From: Tony P. Trimble [mailto:trimblelegals@earthlink.net]

Sent: Wednesday, November 19, 2008 10:53 AM

To: 'Jim Gelbmann'

Cc: 'Gary Poser'; 'Mark Ritchie'; 'Beth Fraser'; Christie.Eller@state.mn.us; 'Gilbert, Al'; 'Raschke, Ken'; 'Lillehaug, David'; 'fknaak@klaw.us'; 'Kaplan, Steven'; 'Marc Elias'; 'Ezra Reese'; 'csheehan@colemanforsenate.com'

Subject: Kandiyohi County

Jim:

The Kandiyohi County Attorney has indicated that the back of the ballot is not a proper matter for consideration in the recount. We disagree, as an identifying mark may exist on the back of a ballot. Our Lead Representative has twice requested the Kandiyohi County Attorney to call your office but he has apparently refused, stating that he is right and doesn't need to ask anyone.

Can you confirm our understanding that the back of the ballot may be reviewed in the recount, and also advise the Kandiyohi County Attorney as to the same?

Thanks,

Matt

Trimble & Associates, Ltd.
10201 Wayzata Blvd., Suite 130
Minneapolis, Minnesota 55305
Tel: (952) 797-7477
Fax: (952) 797-5858

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12/19/2008

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Lillehaug, David

From: Jim Gelbmann [Jim.Gelbmann@state.mn.us]
Sent: Wednesday, November 19, 2008 2:01 PM
To: 'Tony P. Trimble'; Lillehaug, David
Subject: Duplicate Ballots

We are working on some language to clarify rule 9. We will hopefully have something finalized in one hour.

Jim Gelbmann
Deputy Secretary of State
180 State Office Building
Saint Paul, Minnesota 55155
(651) 201-1344 (office)
(651) 334-4077 (cell)

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Lillehaug, David

From: Tony P. Trimble [trimblelegals@earthlink.net]
Sent: Wednesday, November 19, 2008 3:15 PM
To: 'Jim Gelbmann'; Lillehaug, David; Kaplan, Steven; fknaak@klaw.us
Subject: RE: Duplicate Ballots

This is perfectly clear. Thank you.

Tony/Matt

From: Jim Gelbmann [mailto:Jim.Gelbmann@state.mn.us]
Sent: Wednesday, November 19, 2008 3:12 PM
To: 'Tony P. Trimble'; Lillehaug, David; 'Kaplan, Steven'; fknaak@klaw.us
Subject: Duplicate Ballots

Good Afternoon:

This will go to all election officials later today. Call or e-mail if you have concerns.
The attached is information Gary Poser sent to all Deputy Recount Officials earlier this morning. It is the opinion of our Office that Rule 9 is clear about the process to be used when duplicate ballots are found during the sorting process. Those ballots are to be removed from the sorting process and placed in a separate pile. If there is an envelope of original ballots, the original ballots should then be sorted. If there are no duplicate ballots found during the sorting process, the canvass board has not authorized the envelope of original ballots to be opened and the original ballots envelope should remain sealed. If no envelope of original ballots exist, the duplicate ballots should then be sorted. While there is no requirement to compare the number of duplicate ballots to the number of original ballots, if there is an apparent significant discrepancy in the numbers, the candidates' representatives should attempt to agree on whether to sort the original or duplicate ballots. The Deputy recount official shall note on the incident log if the duplicates rather than original ballots were counted. If the two candidate representatives can not agree, the Deputy Recount Official shall sort and count the original ballots. I hope this provides additional clarity.

My best regards.
Sincerely, Jim

Jim Gelbmann
Deputy Secretary of State
180 State Office Building
Saint Paul, Minnesota 55155
(651) 201-1344 (office)
(651) 334-4077 (cell)

From: Elections Dept
Sent: Wednesday, November 19, 2008 9:02 AM
Subject: Additional Information on Duplicate Ballots

elections division

Date: November 19, 2008
To: County Auditors, Election Administrators, and Election Staff

12/19/2008

EXHIBIT D

From: Elections Division

Re: Additional Information on Duplicate Ballots

Duplicates:

* If no ballots marked as duplicates, no reason to go to Original Envelope, there is no way to pull out duplicates to replace with originals.

* If ballots are marked as duplicated, pull out duplicates, not matched to originals, just sort and count the originals.

* If obvious difference between number of duplicates & originals, discuss with candidate representatives, noting decision if counted duplicates or originals on the incident log.

If you have administrative questions during the recount, please call 651-201-1338.

Elections Division

Office of Minnesota Secretary of State

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Lillehaug, David

From: Tony P. Trimble [trimblelegals@earthlink.net]
Sent: Wednesday, November 19, 2008 5:09 PM
To: 'Jim Gelbmann'; 'Cullen Sheehan'; ks@olsen-shuvalov.com
Cc: Lillehaug, David
Subject: RE: Duplicate Ballots

Thanks for contacting her and the clarification.

Matt

=====
Trimble & Associates, Ltd.
10201 Wayzata Blvd., Suite 130
Minneapolis, Minnesota 55305
Tel: (952) 797-7477
Fax: (952) 797-5858

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-----Original Message-----

From: Jim Gelbmann [mailto:Jim.Gelbmann@state.mn.us]
Sent: Wednesday, November 19, 2008 5:06 PM
To: 'Cullen Sheehan'; Jim.Gelbmann@state.mn.us; 'ks@olsen-shuvalov.com'
Cc: trimblelegals@earthlink.net; 'Lillehaug, David'
Subject: RE: Duplicate Ballots

Cullen:

I spoke with the County Auditor. Her version of the situation is that there were no duplicate ballots marked for the precinct. Based on our ruling, if there are no marked duplicate ballots found among the ballots cast, the envelope of original ballots should not be opened. Therefore, the ruling of the Auditor was correct.

Jim

Jim Gelbmann
Deputy Secretary of State

180 State Office Building
Saint Paul, Minnesota 55155
(651) 201-1344 (office)
(651) 334-4077 (cell)

-----Original Message-----

From: Cullen Sheehan [mailto:csheehan@colemanforsenate.com]
Sent: Wednesday, November 19, 2008 4:47 PM
To: Jim.Gelbmann@state.mn.us
Cc: trimblelegals@earthlink.net
Subject: Re: Duplicate Ballots

Jim -

Our contact is Kevin at ks@olsen-shuvalov.com

Thanks,
Cullen

----- Original Message -----

From: Jim Gelbmann <Jim.Gelbmann@state.mn.us>
To: 'Tony P. Trimble' <trimblelegals@earthlink.net>; 'Jim Gelbmann'
<Jim.Gelbmann@state.mn.us>
Cc: 'Lillehaug, David' <dlillehaug@fredlaw.com>; fknaak@klaw.us <fknaak@klaw.us>; 'Kaplan,
Steven' <skaplan@fredlaw.com>; 'Marc Elias'
<MElias@perkinscoie.com>; Cullen Sheehan; 'Ezra Reese'
<EReese@perkinscoie.com>; Christie.Eller@state.mn.us <Christie.Eller@state.mn.us>; 'Gilbert, Al'
<Al.Gilbert@state.mn.us>; 'Raschke, Ken' <Ken.Raschke@state.mn.us>; 'Mark Ritchie'
<Mark.Ritchie@state.mn.us>
Sent: Wed Nov 19 16:43:50 2008
Subject: RE: Duplicate Ballots

Matt:

No one answers at the County Auditor's Office. Does your staff person have access to a blackberry or computer to which I could send an e-mail - or is there somewhere you know where I could fax a letter?

Jim

Jim Gelbmann
Deputy Secretary of State
180 State Office Building
Saint Paul, Minnesota 55155
(651) 201-1344 (office)
(651) 334-4077 (cell)

From: Tony P. Trimble [mailto:trimblelegals@earthlink.net]
Sent: Wednesday, November 19, 2008 4:22 PM
To: 'Jim Gelbmann'
Cc: 'Lillehaug, David'; fknaak@klaw.us; 'Kaplan, Steven'; 'Marc Elias';
csheehan@colemanforsenate.com; 'Ezra Reese'; Christie.Eller@state.mn.us; 'Gilbert, Al'; 'Raschke,
Ken'; 'Mark Ritchie'
Subject: Duplicate Ballots
Importance: High

Jim:

The Cass County Auditor is refusing to open a sealed envelope of "originals". Can someone from your office please contact Cass County to relay the proper instructions?

Thanks,

Matt

=====

Trimble & Associates, Ltd.
10201 Wayzata Blvd., Suite 130
Minneapolis, Minnesota 55305
Tel: (952) 797-7477
Fax: (952) 797-5858

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strictly prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message. To reply to our email administrator directly, please send an email to trimblelegals@earthlink.net.

From: Jim Gelbmann [mailto:Jim.Gelbmann@state.mn.us]
Sent: Wednesday, November 19, 2008 3:12 PM
To: 'Tony P. Trimble'; Lillehaug, David; 'Kaplan, Steven'; fknaak@klaw.us
Subject: Duplicate Ballots

Good Afternoon:

This will go to all election officials later today. Call or e-mail if you have concerns.

The attached is information Gary Poser sent to all Deputy Recount Officials earlier this morning. It is the opinion of our Office that Rule 9 is clear about the process to be used when duplicate ballots are found during the sorting process. Those ballots are to be removed from the sorting process and placed in a separate pile. If there is an envelope of original ballots, the original ballots should then be sorted. If there are no duplicate ballots found during the sorting process, the canvass board has not authorized the envelope of original ballots to be opened and the original ballots envelope should remain sealed. If no envelope of original ballots exist, the duplicate ballots should then be sorted. While there is no requirement to compare the number of duplicate ballots to the number of original ballots, if there is an apparent significant discrepancy in the numbers, the candidates' representatives should attempt to agree on whether to sort the original or duplicate ballots. The Deputy recount official shall note on the incident log if the duplicates rather than original ballots were counted. If the two candidate representatives can not agree, the Deputy Recount Official shall sort and count the original ballots. I hope this provides additional clarity.

My best regards.
Sincerely, Jim

Jim Gelbmann
Deputy Secretary of State
180 State Office Building
Saint Paul, Minnesota 55155
(651) 201-1344 (office)
(651) 334-4077 (cell)

From: Elections Dept
Sent: Wednesday, November 19, 2008 9:02 AM
Subject: Additional Information on Duplicate Ballots

elections division

Date: November 19, 2008
To: County Auditors, Election Administrators, and Election Staff
From: Elections Division

Re: Additional Information on Duplicate Ballots

Duplicates:

* If no ballots marked as duplicates, no reason to go to Original Envelope, there is no way to pull out duplicates to replace with originals.

* If ballots are marked as duplicated, pull out duplicates, not matched to originals, just sort and count the originals.

* If obvious difference between number of duplicates & originals, discuss with candidate representatives, noting decision if counted duplicates or originals on the incident log.

If you have administrative questions during the recount, please call 651-201-1338.

Elections Division

Office of Minnesota Secretary of State

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Lillehaug, David

From: Jim Gelbmann [Jim.Gelbmann@state.mn.us]
Sent: Wednesday, November 19, 2008 5:13 PM
To: 'Tony P. Trimble'; 'Jim Gelbmann'; 'Cullen Sheehan'; ks@olsen-shuvalov.com
Cc: Lillehaug, David
Subject: RE: Duplicates / Copies of Ballots

Already incorporated into the draft.

Jim Gelbmann
Deputy Secretary of State
180 State Office Building
Saint Paul, Minnesota 55155
(651) 201-1344 (office)
(651) 334-4077 (cell)

-----Original Message-----

From: Tony P. Trimble [mailto:trimblelegals@earthlink.net]
Sent: Wednesday, November 19, 2008 5:11 PM
To: 'Jim Gelbmann'; 'Cullen Sheehan'; ks@olsen-shuvalov.com
Cc: 'Lillehaug, David'
Subject: Duplicates / Copies of Ballots

Jim:

Can your point regarding lack of duplicates also be made clear in the SOS "global" instructions?

Additionally, some counties have apparently copied only one side of the challenged ballots - can you issue a global clarification that both sides of the ballots be copied as well?

Thanks,

Matt

=====
Trimble & Associates, Ltd.
10201 Wayzata Blvd., Suite 130
Minneapolis, Minnesota 55305
Tel: (952) 797-7477
Fax: (952) 797-5858

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destroy all copies of the original message. To reply to our email administrator directly, please send an email to trimblelegals@earthlink.net.

-----Original Message-----

From: Jim Gelbmann [mailto:Jim.Gelbmann@state.mn.us]
Sent: Wednesday, November 19, 2008 5:06 PM
To: 'Cullen Sheehan'; Jim.Gelbmann@state.mn.us; 'ks@olsen-shuvalov.com'
Cc: trimblelegals@earthlink.net; 'Lillehaug, David'
Subject: RE: Duplicate Ballots

Cullen:

I spoke with the County Auditor. Her version of the situation is that there were no duplicate ballots marked for the precinct. Based on our ruling, if there are no marked duplicate ballots found among the ballots cast, the envelope of original ballots should not be opened. Therefore, the ruling of the Auditor was correct.

Jim

Jim Gelbmann
Deputy Secretary of State
180 State Office Building
Saint Paul, Minnesota 55155
(651) 201-1344 (office)
(651) 334-4077 (cell)

-----Original Message-----

From: Cullen Sheehan [mailto:csheehan@colemanforsenate.com]
Sent: Wednesday, November 19, 2008 4:47 PM
To: Jim.Gelbmann@state.mn.us
Cc: trimblelegals@earthlink.net
Subject: Re: Duplicate Ballots

Jim -

Our contact is Kevin at ks@olsen-shuvalov.com

Thanks,
Cullen

----- Original Message -----

From: Jim Gelbmann <Jim.Gelbmann@state.mn.us>
To: 'Tony P. Trimble' <trimblelegals@earthlink.net>; 'Jim Gelbmann' <Jim.Gelbmann@state.mn.us>
Cc: 'Lillehaug, David' <dlillehaug@fredlaw.com>; fknaak@klaw.us <fknaak@klaw.us>; 'Kaplan, Steven' <skaplan@fredlaw.com>; 'Marc Elias' <MElias@perkinscoie.com>; Cullen Sheehan; 'Ezra Reese' <EReese@perkinscoie.com>; Christie.Eller@state.mn.us <Christie.Eller@state.mn.us>; 'Gilbert, Al' <Al.Gilbert@state.mn.us>; 'Raschke, Ken' <Ken.Raschke@state.mn.us>; 'Mark Ritchie'

<Mark.Ritchie@state.mn.us>
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Subject: Duplicate Ballots
Importance: High

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Sent: Wednesday, November 19, 2008 3:12 PM
To: 'Tony P. Trimble'; Lillehaug, David; 'Kaplan, Steven'; fknaak@klaw.us
Subject: Duplicate Ballots

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My best regards.
Sincerely, Jim

Jim Gelbmann
Deputy Secretary of State
180 State Office Building
Saint Paul, Minnesota 55155
(651) 201-1344 (office)
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From: Elections Dept
Sent: Wednesday, November 19, 2008 9:02 AM
Subject: Additional Information on Duplicate Ballots

elections division

Date: November 19, 2008
To: County Auditors, Election Administrators, and Election Staff
From: Elections Division
Re: Additional Information on Duplicate Ballots
Duplicates:

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Lillehaug, David

From: Jim Gelbmann [Jim.Gelbmann@state.mn.us]
Sent: Wednesday, November 19, 2008 6:06 PM
To: 'Tony P. Trimble'; Lillehaug, David; fknaak@klaw.us; Kaplan, Steven; Elias, Marc (Perkins Coie)
Cc: Christie.Eller@state.mn.us; Mark Ritchle; 'barb.bailey@courts.state.mn.us'; 'kim.mackie@courts.state.mn.us'; 'kathleen.gearin@courts.state.mn.us'; 'sarah.krause@courts.state.mn.us'; 'edward.cleary@courts.state.mn.us'; 'Tolbert, Chris (LC Gearin)'
Subject: FW: Recount items of note

Good Evening:

The following e-mail was sent to all Deputy Recount Officials. It is an attempt to clarify many of the most asked questions we have received from Candidate Representatives and election officials throughout the day. While there were many questions, it does appear that most of the sorting and counting went well. Several small counties have completed their task. We did our best to respond quickly to problems and questions that were brought to our attention.

Our Website will summarize most of the day's work tonight at 8:00 p.m., although we have hear that Olmsted County will be working until 9:00 p.m.

Please don't hesitate to call if you have questions or concerns.

My best regards.

Sincerely,

Jim

Jim Gelbmann
Deputy Secretary of State
180 State Office Building
Saint Paul, Minnesota 55155
(651) 201-1344 (office)
(651) 334-4077 (cell)

From: Gary Poser
Sent: Wednesday, November 19, 2008 5:53 PM
To: Gary Poser
Subject: Recount Items of note

Good Evening:

I would like to once again thank everyone who participated in the Statewide Senate recount today. Your efforts on this recount will never be forgotten by our office.

During the day, a number of questions have come up about unique situations. I would like to clarify some of the issues we heard most often.

Challenged Ballots

It is the right of a candidate's representative to challenge any ballot cast. They must state the reason for the challenge. A Deputy Recount Official or Table Official has the right to express an opinion that he or she believes the challenge is either

12/19/2008

EXHIBIT G

frivolous or does not fall within the scope of items that can be challenged. Entire precincts cannot be challenged, a specific challenge must be made on voter intent of each ballot under 204C.22. The challenger must say what is the identifying mark made by the voter to intended to identify the ballot. However, the candidate's representative has the final say on voter intent challenges. If he or she wants to challenge a ballot based on voter intent, it is up to the State Canvassing Board to rule on the validity of the challenge. A Deputy Recount Official or Table Official can not refuse to allow a candidate's representative to challenge a specific ballot.

Lack of Judges Initials: Under M.S. 204C.20 Subd. 2, the absence of either or both sets of initials of the election judges must not be the basis of a challenge in a recount.

Remember to copy both sides when making the 4 copies of the challenged ballots. OSS will provide instructions to courier the challenged ballots. Until to receive instructions, keep the challenged ballots secure.

On a separate note of confusion:

If candidate A's representative challenges a ballot, and, upon further examination, the Table Official has the discretion to agree with the challenge made by candidate A's representative. In other words, the Table Official changes his or her mind and places the ballot in the pile suggested by candidate A's representative. At that point, candidate B's representative has the option of issuing a challenge and the ballot would then be placed in the pile set aside for ballots challenged by candidate B.

Duplicate Ballots

It is the opinion of our Office that Rule 9 is clear about the process to be used when duplicate ballots are found during the sorting process. Those ballots are to be removed from the sorting process and placed in a separate pile. If there is an envelope of original ballots, the original ballots should then be sorted. If there are no duplicate ballots found during the sorting process, the canvass board has not authorized the envelope of original ballots to be opened and the original ballots envelope should remain sealed. If no envelope of original ballots exist, the duplicate ballots should then be sorted. While there is no requirement to compare the number of duplicate ballots to the number of original ballots, if there is an apparent significant discrepancy in the numbers, the candidates' representatives should attempt to agree on whether to sort the original or duplicate ballots. The Deputy recount official shall note on the incident log if the duplicates rather than original ballots were counted. If the two candidate representatives can not agree, the Deputy Recount Official shall sort and count the original ballots. I hope this provides additional clarity.

Back of Ballots

If asked, table officials must allow candidate representatives to examine both the front and back of all ballots. There may be identifying marks on the back of a ballot that could trigger a challenge to the entire ballot. A quick method to accomplish this is to take the oriented ballots and look through the back sides for identifying marks, then turn the ballots over and sort into the candidate piles.

Keep All Unauthorized Individuals Out of the Sorting and Counting Area

The only individuals who are allowed to be in the sorting and counting areas are the Deputy Recount Official, the Assistant Deputy Recount Official, the Table Officials (at least two, and not more than three, at each table), the Candidates' Lead Representatives (one per candidate) may serve as a roving representative, and a second Roving Representative is allowed at the discretion of each candidate, and one candidate representative for each candidate at each table. If space allows, the Deputy Recount Official can authorize each candidate to have a second candidate's representative at one or more tables, provided both candidates have enough staff for each of the candidates to have two representatives at that table. If there are two candidate representatives at a table, only one representative shall be authorized to challenge ballots.

Candidate Representative Designation

All candidate representatives must have a letter on original letterhead from the candidate's campaign or law firm designating them as an official representative of the candidate.

Gary.

12/19/2008

Gary Poser

Director of Elections
Office of the Minnesota Secretary of State
180 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul MN 55155
Phone: 651-556-0612
Fax: 651-296-9073
Email: Gary.Poser@state.mn.us

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12/19/2008

Lillehaug, David

From: Tony P. Trimble [trimblelegals@earthlink.net]
Sent: Friday, November 21, 2008 8:49 AM
To: 'Jim Gelbmann'; Kaplan, Steven; fknaak@klaw.us; 'Gary Poser'; 'Mark Ritchie'; Lillehaug, David; ereese@perkinscoie.com; sauttercom@aol.com
Subject: RE: Duplicate Ballots/Anoka County

Thanks, Jim. I clarified this yesterday afternoon with Gary Poser and our Anoka County Lead Representative. We understand that Anoka County officials had a telephone conference with Gary Poser on this matter and all proceeded according to the Secretary of State's original directions.

Matt

Trimble & Associates, Ltd.
10201 Wayzata Blvd., Suite 130
Minneapolis, Minnesota 55305
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From: Jim Gelbmann [mailto:Jim.Gelbmann@state.mn.us]
Sent: Friday, November 21, 2008 8:40 AM
To: 'Tony P. Trimble'; 'Jim Gelbmann'; 'Kaplan, Steven'; fknaak@klaw.us; 'Gary Poser'; 'Mark Ritchie'; 'Lillehaug, David'; ereese@perkinscoie.com; sauttercom@aol.com
Subject: RE: Duplicate Ballots

Tony:

This is not true. We stand by our instructions as stated in our memo of November 19th. I'm not sure from where the confusion is coming.

Best!!!

Jim

Jim Gelbmann
Deputy Secretary of State
180 State Office Building
Saint Paul, Minnesota 55155
(651) 201-1344 (office)

12/19/2008

EXHIBIT H

(651) 334-4077 (cell)

From: Tony P. Trimble [mailto:trimblelegals@earthlink.net]
Sent: Thursday, November 20, 2008 3:11 PM
To: 'Jim Gelbmann'; 'Kaplan, Steven'; fknaak@klaw.us; 'Gary Poser'; 'Mark Ritchie'; 'Lillehaug, David'; ereese@perkinscole.com; sauttercom@aol.com
Subject: Duplicate Ballots

Jim:

We have just received word from Anoka County that the Secretary of State is now reversing its course as to originals and duplicates from below, instructing officials to now count originals if no duplicate exists or can be found.

Can you confirm this? If so, how will you address all of the precincts in which the reverse has occurred?

We know of several instances in clear Coleman originals have been rejected by local election officials due to lack of a corresponding duplicate (and likely vice versa) and if the rule is reversed, we request that prior precincts be notified to enable both parties to go back and examine all originals.

Please advise.

Matt

From: Jim Gelbmann [mailto:Jim.Gelbmann@state.mn.us]
Sent: Wednesday, November 19, 2008 3:12 PM
To: 'Tony P. Trimble'; Lillehaug, David; 'Kaplan, Steven'; fknaak@klaw.us
Subject: Duplicate Ballots

Good Afternoon:

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My best regards.

Sincerely, Jim

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12/19/2008

From: Elections Dept
Sent: Wednesday, November 19, 2008 9:02 AM
Subject: Additional Information on Duplicate Ballots

elections division

Date: November 19, 2008
To: County Auditors, Election Administrators, and Election Staff
From: Elections Division
Re: Additional Information on Duplicate Ballots

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Elections Division
Office of Minnesota Secretary of State

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Lillehaug, David

From: Tony P. Trimble [trimblelegals@earthlink.net]
Sent: Friday, November 21, 2008 1:19 PM
To: 'Reese, Ezra (Perkins Coie)'; 'Jim Gelbmann'; Lillehaug, David; sauttercom@aol.com; 'Gary Poser'
Cc: csheehan@colemanforsenate.com
Subject: RE: URGENT -- Duplicate Ballots in Brooklyn Park

We will wish to participate in any review of these precincts and can arrange for a Lead Representative at any time the Secretary of State schedules it. We wish to have observers and counsel present at that process as well.

Tony/Matt

From: Reese, Ezra (Perkins Coie) [mailto:EReese@perkinscoie.com]
Sent: Friday, November 21, 2008 1:07 PM
To: Jim Gelbmann; Lillehaug, David; sauttercom@aol.com; Tony P. Trimble; Gary Poser
Subject: RE: URGENT -- Duplicate Ballots in Brooklyn Park

Jim,

Do you know which precincts now have the original ballot envelopes?

Thanks,

Ezra Reese

Ezra W. Reese | Perkins Coie LLP
ereese@perkinscoie.com

From: Jim Gelbmann [mailto:Jim.Gelbmann@state.mn.us]
Sent: Friday, November 21, 2008 10:42 AM
To: Lillehaug, David; 'Tony P. Trimble'
Cc: Gary Poser
Subject: Situation in Brooklyn Park
Importance: High

Dear Tony and David:

We received a call from Devin Montero, Deputy Recount Official in Brooklyn Park. During the Brooklyn Park Recount, the Table Officials found 11 of the 24 precincts for which there appeared to be no Original Ballots, even though there were duplicate ballots marked within the ballots for those precincts. Pursuant to agreed upon procedures, they simply sorted and counted the duplicate ballots.

This morning, as Devin was securing all the ballots and putting boxes and envelopes in order, he located the eleven envelopes of original ballots which were comingled with the envelopes containing the spoiled ballots. Both the spoiled ballot envelopes and the 11 original ballot envelopes have been secured the entire time.

Given this new development, we would propose that the 11 precincts be resorted and recounted using the original ballots. Would you be able to have observers and a Lead Representative to observe this resorting and recounting? If so, when would it be convenient for you to do so?

12/19/2008

My best regards.

Sincerely,

Jim

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Lillehaug, David

From: Jim Gelbmann [Jim.Gelbmann@state.mn.us]
Sent: Monday, November 24, 2008 3:54 PM
To: 'devin.montero@brooklynpark.org'
Cc: 'Ezra Reese'; 'Tony P. Trimble'; fknaak@klaw.us; Lillehaug, David; Gary Poser
Subject: Procedure For Counting The Newly-discovered Originals

Dear Devin:

I will attempt to be very clear about the procedures you should use when reopening the 11 precincts tomorrow morning.

As I understand the situation, at the time you sorted and counted these 11 precincts, you were unable to locate an envelope containing original ballots for each of these 11 precincts, even though you did find marked duplicate ballots within the precincts. You proceeded to sort and count the duplicate ballots pursuant to the procedures. After you finished your sort and count and you were securing your ballots, you located the 11 envelopes of original ballots among the envelopes containing spoiled ballots.

There is no need for you to recount the 11 precincts tomorrow. Your focus should only be on the duplicate ballots and the original ballots.

For each precinct this is how I suggest you proceed.

Do one precinct at a time. Open the box of ballots for that precinct in the presence of candidate representatives for both candidates. Quickly sort through the ballots to find the ballots marked as duplicate ballots. Make certain that no marked duplicate ballot had been challenged by one of the candidates by reviewing your copies of the challenged ballots.

Sort the duplicate ballots and establish a count for each candidate, other and challenged ballots. Subtract the count from each of your candidate, other and challenged totals for that precinct. After that has been accomplished, then, and only then, open the original ballot envelope for that precinct and sort those ballots, allowing the candidate representatives an opportunity to challenge any of the original ballots. Once sorted, establish a count for the original ballots and add that count to each of the candidate, other and challenged ballot totals for that precinct. Hopefully the number of duplicates found equal the number of original ballots in each envelope. If not, the default is to count the original ballots and stick with that total.

After all eleven precincts are completed, enter the revised numbers in the system and on your summary sheet.

Keep a careful record of everything you do in your incident log - including the number of duplicates found, the number of originals in each envelope and the vote totals for the duplicates and the originals.

If you are uncomfortable with these instructions, I would be willing to come out to Brooklyn Park tomorrow morning to assist. Please let me know if you would like me to assist.

My best regards.

Sincerely,

Jim

Jim Gelbmann
Deputy Secretary of State
180 State Office Building
Saint Paul, Minnesota 55155
(651) 201-1344 (office)

12/19/2008

EXHIBIT J

(651) 334-4077 (cell)

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Lillehaug, David

From: Reese, Ezra (Perkins Coie) [EReese@perkinscoie.com]
Sent: Monday, November 24, 2008 5:36 PM
To: Jim Gelbmann; Tony P. Trimble; Cullen Sheehan
Cc: Lillehaug, David; fknaak@klaw.us; sauttercom@aol.com; Gary Poser
Subject: RE: Mower - Emergency

Jim, Gary,

We have another Mower issue - this one an emergency. We are told that in one precinct (Austin, Ward 1, Precinct 2), duplicates were found, along with originals. Instead of removing the duplicates and counting the originals, Mr. Groh has decided to count both, and he and his staff are now physically altering the election night tapes to reflect the new numbers. This is a grave concern.

The phone number in the counting room is 507/437-9540. Please have someone call immediately.

Ezra W. Reese | Perkins Coie LLP
ereese@perkinscoie.com

-----Original Message-----

From: Reese, Ezra (Perkins Coie)

Sent: Monday, November 24, 2008 10:56 AM
To: 'Jim Gelbmann'; 'Tony P. Trimble'; 'Cullen Sheehan'
Cc: 'Lillehaug, David'; 'fknaak@klaw.us'; 'sauttercom@aol.com'; 'Gary Poser'
Subject: Mower

Jim,

Good morning. We have a report that Doug Groh, the County Auditor in Mower, has stopped the count for an opportunity to berate challengers, and has stated his belief that he, and not the State Canvassing Board, should be making final determinations on these ballots. Apparently, he required one of our challengers to explain the rationale for the challenge to the room, and then required our challenger to read the rules aloud. We do not appreciate our personnel being treated this way. A quick call from you to the Auditor would be appreciated. Mr. Groh's number is 507/437-9536.

Ezra W. Reese | Perkins Coie LLP
ereese@perkinscoie.com

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